

Notice of Allowability

Application No.

09/963,593

Examiner

David Sample

Applicant(s)

OYAMA ET AL.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed May 4, 2004.
2. ☒ The allowed claim(s) is/are 6-8,12,15-18,21-25 and 31-33.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James Ledbedder on July 6, 2004.

The application has been amended as follows:

Claims 26-30 have been cancelled.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 6-8, 12, 15-18, 21-25, and 31-33 are allowed for the reasons already of record.

Upon further review, claims 26-30 have been cancelled to allow the remainder of the claims to be allowed. The claims were cancelled to prevent a rejection over the prior art. For example, US Patent No. 5,925,582 discloses a glass for use as a lamp envelope containing SO₃ in amounts that anticipate claims 26-30. See the Table in col. 4.

US Patent No's 6,649,443 ('443) and 6,744,207 ('207) have been made of record. Neither patent is prior art since the present application is entitled to the benefit of its foreign priority date. Moreover, neither patent is appropriate for instituting an interference.

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The "two-way obviousness" test is required for instituting an interference. In other words, the claims of the present application must render obvious the claims of the patent, and vice versa.

The present claims do not disclose or suggest the amounts of BaO and SrO recited in the claims of the '443 patent.

The present claims do not disclose or suggest an "amber" glass as recited in the claims of the '207 patent. The attached plot shows the color coordinates of the two varieties of "amber" defined by the '207 application (col. 5, lines 55-67)¹; the yellow color coordinates (yellow and fog lamp yellow) recited in the present claims (e.g., instant claims 15, 16, 32, and 33); and the disclosed (but not claimed) yellow red (page 6, paragraph 1). As can be seen from the plot, there is no overlap between the presently claimed color coordinates and the amber as defined by the '207 patent. The "yellow-red" of the instant application overlaps the amber defined by the '207 application, but this "yellow-red" glass is not claimed. It is noted that some of the present claims (instant claims 25 and 31) recite a glass without reciting a color. These claims do not suggest that the glass is amber, and it would not have been obvious to one of ordinary skill in the art at the time the invention was made to have formed an amber glass.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

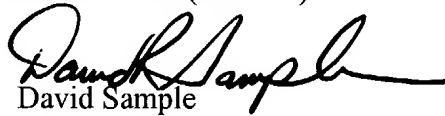
¹ The specification is used for the interpretation of the word "amber" in the claims of the '207 patent.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (572)272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David Sample
Primary Examiner
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